

STAFFORD COUNTY PLANNING COMMISSION
June 20, 2012

The meeting of the Stafford County Planning Commission of Wednesday, June 6, 2012, was called to order at 6:31 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Rhodes, Hirons, Apicella, Boswell, Hazard, Gibbons and Schwartz

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Baker, Zuraf, Ansong, Forestier, Hornung and Knighting

Mrs. Hazard stated that all seven members were present.

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes asked if there were any declarations of disqualification. Mr. Boswell stated item 4 on the agenda, Reclassification on the Sites Property involves a towing business. He stated he wanted to disclose that he also owned a towing business but felt he could be impartial in the decisions made. Mr. Rhodes stated thank you and proceeded to unfinished business.

UNFINISHED BUSINESS

1. Architectural Design Standards – Amend the Traditional Neighborhood Development Plan, an element of the Comprehensive Plan, to incorporate Architectural Design Standards. **(Time Limit: September 5, 2012) (Deferred at April 18, 2012 to May 2, 2012) (Deferred at May 2, 2012 to May 16, 2012) (Deferred at May 16, 2012 to June 6, 2012) (Deferred at June 6, 2012 to June 20, 2012)**
(Authorize for Public Hearing by: July 11, 2012)
(Potential Public Hearing Date: August 15, 2012)

Mike Zuraf gave a staff update and stated two public meeting dates had been scheduled to get public input on Architectural Design Guidelines. He stated those date were July 25th from 5-8 p.m. at England Run Library and July 31st from 5-8 p.m. at John Musante Porter Library in North Stafford. He suggested the Commission consider requesting a one month extension from the Board. Mr. Gibbons made a motion to request from the Board of Supervisors a one month extension to allow more time for completion. Mrs. Hazard seconded the motion. Mrs. Hazard stated that having listened to some of the Board of Supervisors discussion last night of some of their workload, she thinks maybe they would be able to entertain letting the Commission have another month. Mr. Rhodes called for the vote. The motion passed 7 to 0. Mrs. Hazard asked Mr. Zuraf if there was any way, with regard to what will be presented to the public, whether they could get some feedback on buffering between residential and commercial. Mr. Zuraf stated they could possibly work that in because they do envision a screening section but the thought was more so screening of commercial uses from the road, but that could also be perimeter screening that could be added in. Mr. Rhodes proceeded to item number 2.

Planning Commission Minutes
June 20, 2012

NEW BUSINESS

2. Urban Development Areas - Discussion of Urban Development Areas to study the future applicability of Urban Development Areas in the County and identify any recommendations that should be considered for amending the Comprehensive Plan. **(Time Limit: October 4, 2012)**

Mike Zuraf gave an update for this item. He stated that the Board adopted a Resolution to request the Planning Commission to look further into the applicability of Urban Development Areas in the County and consider any recommendations for amendment to the Comprehensive Plan as it relates to Urban Development Areas. He stated staff provided the Commission with the Board's Resolution and the House Bill from the State that made Urban Development Areas optional. He stated that staff also provided a few points in the memo for the Commission's consideration of modifications to the Urban Development Areas. Mr. Zuraf gave a brief presentation. He stated they could recommend anything from making no changes at all, the repeal of all the development areas, or different types of modifications to the UDAs, to either remove or add individual Urban Development Areas, modify the size and extent of the Urban Development Area. Also consider modifying the development intensity or the recommended density of development that would be in the areas. He stated the current plan calls for the Urban Development Areas to build out over the next 10 year time horizon by 2010, and they would recommend that language in the Comp Plan be modified to increase the build out time horizon from 10 years to 20 years as a more realistic timeline. He stated that one thing that staff can do is generate an evaluation matrix for the Commission's consideration for comparison the Urban Development Areas and identify the pros and cons of each one. Mr. Zuraf stated staff needs recommendation from the Planning Commission on anything they would need to work on. Mr. Apicella asked if the program was discretionary, and looking at page 2 of attachment 2, part 2, it states the Urban Development Areas designated by a locality may be sufficient to meet projected residential and commercial growth in the locality for the ensuing period...So why if it's may and whole program is now optional, why would we have to move an X number of units associated with it somewhere else? Mr. Zuraf stated it was all based on projected growth, assuming there were growth projections the Comp Plan was based on what the projected growth was assumed to be, and was estimated over the next 20 year time horizon at 28,000 units in total. Mr. Apicella stated he did not understand whether it was a mandatory requirement from the State versus a discretionary option. Mr. Zuraf stated it was more discretionary. It was more so making sure that we are planning for the expected growth that was projected. He stated it was more of a good planning practice than a mandatory thing.

Mr. Apicella stated he would be curious to know how other jurisdictions were handling the change from the State Legislature. What kind of alternatives and options were they coming up with? Mrs. Hazard asked if it was really all or nothing, do we have to take them all and accommodate the growth. She asked when dealing with UDAs, do they have to stick with the 28,000 number on the 20 year plan, and still deal with the other areas. She stated she did not understand the discretionary use. Ms. McClendon stated the way it currently stands was the Legislation does make UDAs optional, so therefore it was not all or nothing, and they say one or more Urban Development Areas. She stated in the provisions where numbers were provided they were more discretionary in the may so if you are looking to incorporate UDAs those were suggestions, but really nothing was so much of a shall. There was a lot more flexibility built into the amended Legislation. Mr. Rhodes stated at one time, when they were starting in the early years of the Comp Plan redevelopment, they looked at the population growth in the County since 1950. In any decade or 20 year period there

Planning Commission Minutes
June 20, 2012

was a definitive pattern, it did not matter which segment you took, there was a growth of 40 to 60 percent. Mr. Hirons asked if they reduce the number of UDAs, but still called them UDAs, were they still bound to use the population growth figures that had been used previously. Ms. McClendon stated if you continue to have a UDA, then the growth calculation would have to be based on that. The flexibility that was built in the provision was regarding the 10 to 20 year time horizon. She stated that it says may be sufficient to meet projected residential and commercial growth over 10 to 20 years, so that is where the flexibility was built in. But if the Commission decides to call it a UDA, then you would have to use those figures, but the build out could be changed. Mr. Hirons if would we they suffer any consequences if we do not use UDAs, either from the State or Federal Transportation Funding. He stated he wanted to make sure these were truly optional. Mr. Harvey stated they would look into that in more detail, but with regard to using the State's growth projections, George Washington Regional Commission and FAMPO use those growth projections in their planning purposes. Our Regional Transportation Model looks at the growth projections that the State uses and those are considered to be controls for study purposes, so if we use a different growth projection than the State does it may our transportation modeling not congruent with the regional model, which that may have some issues that we have not discovered yet. That is why staff feels it is important to use the projection over the 20 year period.

Mr. Hirons asked what the Board would like to receive back from the Planning Commission. Mr. Rhodes stated they were looking for the Commission's thoughts on a proposed amendment that they might refer back to the Commission. Mr. Hirons suggested working on this as a whole committee. Mrs. Hazard stated that it would be somewhat useful to know those areas that were already on the books of approved large subdivisions, so that the Commission had an idea of where the areas were. Mr. Hirons recommended staff come up with a method to get citizen input. Mr. Zuraf stated he could do that. Mr. Apicella recommended a minimum of pros and cons with respect to keeping the UDAs as they were originally planned. Mrs. Hazard recommended putting the numbers that were in the redevelopment area in a graph of the capacity amount. Mr. Harvey stated the Commission has given good direction for staff to start working on the project. With no further discussion, Mr. Rhodes proceeded to item number 3.

3. By-laws Update - Proposed change to order of business, meeting dates and times.

Mr. Harvey stated that item number 3 was a consideration of updating the By-laws. He stated that a revision to the By-laws was prepared, which were reflected in underline and overstrike formatting. Specifically there were changes that address the Commission's meeting dates and limitation on time for adjournment at 10 p.m., unless there was a majority vote of the members present to continue the meeting. There were changes to the order of business, which dealt with having public presentations as the first item on the agenda and thereafter public hearings would be held. Unfinished business and new business would follow, then the remainder of the agenda would continue. He stated that by reordering the agenda there is the ability to get the public to provide their input earlier in the meeting, be able to adjourn at a more reasonable hour, and allow the Commission to focus on unfinished business and new business in a consistent manner. He stated there was discussion of changing the meeting dates to the 2nd and 4th Wednesdays, and staff has considered the availability of the Board Chambers and it was available at that time. Mr. Rhodes asked if there were any thoughts subsequently by the Commission members on unintended consequences. Mrs. Hazard recommended keeping the meetings generally on the 2nd and 4th Wednesday with the intent to have the meetings alternate with the Board of Supervisors. Mr. Apicella agreed, and stated that he was curious about amending the By-laws. He asked if they had to provide public notice. Mr. Rhodes

***Planning Commission Minutes
June 20, 2012***

stated By-laws were a two-third vote to amend. He asked Ms. McClendon what other rule sets were associated with By-law changes. Ms. McClendon stated there also had to be a 30-day notice, which means that the Commission could not vote on amending the By-laws until 30 days from now. Mr. Rhodes asked if the 30 days started tonight. Ms. McClendon stated that was correct and suggested a motion to postpone the amendment of the By-laws until the meeting on August 15, 2012. Mr. Apicella made a motion to postpone approval of the By-laws until the August 15, 2012 Planning Commission meeting. Mrs. Hazard seconded the motion. The motion passed 7 to 0. With no further discussion, Mr. Rhodes proceeded to discuss the TRC information.

OTHER BUSINESS

10. TRC Information – June 27, 2012

Andrea Hornung gave a brief update. She stated that for June 27th there was 1 item, which was Butler Estates at 9 a.m. to 10 a.m. in Mr. Gibbons District. She stated on July 11th for Mr. Apicella, they have Hampton Inn at Aquia scheduled at 9 a.m. for discussion of expansion of the hotel, and at 10 a.m. for Mr. Rhodes they have Embrey Mills, Section 2, Recreation Area C. She stated there would be a break from 11 a.m. to 12 p.m. and following that for Dr. Schwartz was Walgreens at Cool Spring Road from 12 p.m. to 1 p.m. She stated from 1 p.m. to 2 p.m. with Mrs. Hazard, they have Stafford High School, which was the demolition of the existing Stafford High School as well as the rebuild of the new high school with the fields, courts, and other amenities. She stated they have 1 item submitted for August 8th but the deadline for the August 8th TRC was July 9th. The only item submitted was the Wawa at Carter's Crossing West for Dr. Schwartz and the time will be discussed at a later date.

PLANNING DIRECTOR'S REPORT

- ***I-Pads – Data Plans***

Mr. Harvey stated the Board of Supervisors referred an item to the Planning Commission regarding Sign Regulations. It was shown in the packet provided with agenda item number 8. He stated staff had noted they have a number of uses in the County that were allowed in various zoning districts that do not allow for signs, specifically churches, in certain zones such as residential zones. Similarly if there was a private school or nursing home, so the Board referred this to the Commission to consider on premise as well as off premise signs for those type of uses. Mr. Rhodes asked what the timeframe was. Mr. Harvey stated the Commission was to conduct their public hearing and make a recommendation by November 7th. He stated the Board also passed the Westgate rezoning last night, and there was some discussion about the right-of-way dedication. The applicant dedicated the small 4.7 acre section for the right-of-way for the Interchange for. He stated the Board passed the Regulations for Cluster Developments and now they have a new Cluster Ordinance, which they feel complied with State Code. The Board also adopted Farmers Market as a permitted use in our Zoning Ordinance and has performance standards for Farmers Markets. They adopted the Planning Commissions recommended changes to the UD Zoning District as well as the densities in the Comprehensive Plan for Urban Development Areas. He stated staff had more discussions with the IT Department about the implementation of the iPads. They have put in a purchase order to acquire them, in discussion with IT and the County Administrator, they want to do a similar program to what the Board of Supervisors have, where if the Commission would like to pay 50 percent of the cost of the iPad and end up owning it at the end of your term, if not then it

***Planning Commission Minutes
June 20, 2012***

would remain as property of the County. There was one software download required and the County asks that the individual Commissioners purchase it and then receive a reimbursement. It is known as iAnnotate, but more details would be provided as they get closer to implementation. He stated they looked to what sort of broadband access would be necessary to download all of the County information, and it was determined that currently the only thing necessary was Wi-Fi. He stated that if individual Commissioners would like to add 3G to their iPad they can do so at their own expense. He mentioned they may also have something set up on the bookshelf for the Commissioners. He stated staff was currently looking at possibly deploying this at the Planning Commission meeting in August. Mr. Rhodes asked they could include the full package instead of just an update for carry over items. Mr. Harvey stated yes but staff would have to figure out the situation. He explained with iAnnotate the Commissioners could look at the item in the staff report and put in bookmarks, highlights, and take notes on the documentation to be better prepared for the meetings. He stated that the Commission would also have the ability to view previous meetings. Mr. Apicella asked if the IT staff or the Planning staff would be willing to give the Commissioners a one hour tutorial on uses of the iPad. Mr. Harvey stated staff would be willing to schedule that. He recommended discussing further at the July meeting. Mr. Hirons asked if they would still receive the full site plan. Mr. Harvey stated if that was the wish of the Commission, staff would do that. Mr. Gibbons asked if they could change the language to a Geographical Boundary instead of using the term UDA and TDR. Mr. Rhodes stated they would re-comment on that in the public hearing portion. Mr. Harvey concluded his report.

COUNTY ATTORNEY'S REPORT

Ms. McClendon stated she had no report at this time.

COMMITTEE REPORTS

9. **Proffer Guidelines**

Mr. Hirons stated the Committee that was discussing proffers met last Wednesday and received their initial information. He stated in regard to schedules, the best thing that was going to work out for all the Committee members was to meet on Tuesday's during the day at 10 a.m.. The next meeting was this coming Tuesday the 29th at 10 a.m. Mr. Hirons concluded his report. Ms. McClendon confirmed that the Proffer Committee meeting would be held in the ABC Conference Room. Mr. Gibbons stated his concerns with the scheduling of the meetings agenda.

CHAIRMAN'S REPORT

Mr. Rhodes stated he had nothing to report.

APPROVAL OF MINUTES

None

Mr. Rhodes stated because of the time the Commission would break for about 8 minutes and come back with public presentations at 7:30 p.m.

The meeting recessed at 7:22 p.m.

*Planning Commission Minutes
June 20, 2012*

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7:30 P.M.

Mr. Rhodes reconvened the meeting at 7:31 p.m.

PUBLIC PRESENTATIONS

Mr. Rhodes opened the public presentations. With no one coming forward the public presentations were closed. Mr. Rhodes moved on to item 4.

PUBLIC HEARINGS

4. RC1200121; Reclassification – James Sites Property – A proposed amendment to proffered conditions to modify the permitted industrial uses on Assessor's Parcel 35-66 consisting of 1.26 acres, zoned M-1, Light Industrial Zoning District, located on the south side of Warrenton Road, at the intersection with Hemp Road, within the Hartwood Election District. **(Time Limit: September 18, 2012)**

Kathy Baker gave the staff presentation. She stated the application shows the Board of Supervisors as the applicant. Back in February, the Board authorized the County serve in that capacity. She stated on the Board of Supervisors behalf. She stated that there is currently a towing business on this site, and a good part of the business entails towing cars to places such as the auto auction. She explained that the property was rezoned from A-1 to M-1 in 1999, and there were proffers associated with that rezoning. She stated that currently the proffers do not allow for fleet parking and the towing business would fall under that based on the size of the trucks and the number of trucks that would be on the property. She stated the proposal was to amend the proffers, primarily to allow the fleet parking but there were other changes to the proffers that staff had gone through with the property owner, so those changes would be part of the application. She stated from an aerial view, it does not show some of the recent improvements on the site such as the fence that had been installed and it does not show the area where vehicles were currently parking. She stated what exists now was a former residence and it was being used as the office for the towing business, in which Route 17 is in front of the office and currently a circular driveway accesses the property, but there is a fence that was installed, which is not shown. Mrs. Baker gave a visual presentation of the property. She stated the generalized development plan really shows the existing property as it was, there would not be any changes to the site, the owner was going to continue to use the primary structure as their office. She stated that all of the parking would take place behind the fenced area, so the area in front of the fence would be for employee parking only. She stated there was a Transportation Impact Analysis Determination Form submitted, which proposed 65 vehicles per day to and from the site. Because of the volume, there was no requirement for a full traffic analysis. She stated there were original proffers that require acceleration and deceleration lanes out front but those proffers were not changing, that would still be a requirement. She stated the revisions entail removing the proffer regarding the manufactured home onsite and then removing the proffer limiting the fleet parking, so by striking through that they would then be allowed to have fleet parking, including the storage of the tow trucks. She explained that they are also proposing to revise the type of fence from the board on board that was originally proposed to a chain link fence with slats. They would utilize the chain linked fence that exists there and insert the slats to prevent it from being transparent. She mentioned that some of the additional proffers would be a limitation

***Planning Commission Minutes
June 20, 2012***

of 15 trucks on-site at any time, the tow trucks and vehicles being towed shall be parked within the fenced area, inoperable vehicles shall not be permitted on the property for more than 30 days, which was consistent with DMV regulations.

Mr. Gibbons asked the limitation of inoperable vehicles that could be parked. Mrs. Baker stated they did not discuss the limitation of inoperable, only the limitation on the timeframe they would be there. Mr. Sites suggested making a recommendation. Mr. Gibbons stated he would wait until closing of the public hearing.

Mrs. Baker proceeded with the presentation. She stated they would be limiting their hours of operation to 10 a.m. to 8 p.m. The business would not be open to the public, and there would be landscaping planted along the frontage of the fence. She stated that the Comprehensive Plan does recommend suburban land use. Within that land use designation, industrial uses were allowed, it was recommended that they be non-nuisance, not water intensive and located along major transportation corridors. She stated staff was recommending approval; the changes would not significantly impact the intensity of the use to be allowed on site, for the proffers we hope to mitigate any potential impacts to adjacent properties, and this was in conformance with the Comprehensive Plan and consistent generally with the development pattern in this area. Mr. Rhodes asked if there were any indication or discussion with the owners as to how many inoperable vehicles would be there at any time. Mrs. Baker stated she did not recall, and noted that the owner's representative was present. Mr. Apicella suggested considering the total number of vehicles, whether operable or inoperable, considering the fact that some of the vehicles come from auctions. Mrs. Baker stated that was a good point, but it was going to be a temporary storage in the instance of it being towed, it was not an impound lot. Mr. Rhodes asked to hear from the owner's representative in conjunction with the staff presentation.

DebraRae Karnes stated she was representing the owner, Mr. Sites. Mr. Rhodes asked what would be the total number of operable and inoperable vehicles on-site at any point in time. Ms. Karnes stated the maximum number of operable and inoperable vehicles at one time was 20, and most of the vehicles on-site were operable. They were vehicles being transferred from point to point, and most of the inoperable vehicles, if they ever end up there, were there temporarily and transferred to another location outside of the County. Mr. Apicella asked if the applicant or staff could help them understand what gave rise to this situation. Ms. Karnes stated that Mr. Sites purchased the property after the rezoning occurred and he was not aware of the proffers in place. When he learned of it, he approached the County, and that was when they began working toward this application. Mr. Gibbons stated he had never seen a towing company that did not have an impound area. Ms. Karnes stated they have an impound area, and the vehicles could be stored on site but most of the inoperable vehicles were transferred to another location out of the County. Mr. Gibbons asked if someone towed the vehicle, would the owner of the vehicle be able to come claim it. Ms. Karnes stated the owner could reclaim it, but most of the vehicles that were towed were not towed to this site, most times they were towed to a repair facility. For those vehicles that were towed to the site on a temporary basis were transferred to another impound facility.

Dr. Schwartz the original proffers that were done in 1999, were supposed to have an acceleration and deceleration lane, but according to the aerial view it does not seem to exist. Ms. Karnes stated it did not exist. Ms. Karnes stated the language in the proffers from 1999, states if to the extent possible consistent with VDOT's standards. She stated the owner was going to consult with VDOT as they take care of the other proffers and get consent from VDOT. She stated if VDOT requires

*Planning Commission Minutes
June 20, 2012*

the lanes, then the owner would have to install them. Mr. Boswell suggested making the site available to the public considering the fact that the towing company was allowed 30 days to process the paperwork for towing of a vehicle. Mr. Rhodes asked for confirmation of whether or not the business model was impounding vehicles or just taking towed vehicles and was that included in the business model. Mr. Hirons asked with the County being the applicant, who would suffer the consequences of the violation. Ms. McClendon stated the property owner was held to the proffers or zoning requirements. She stated that the County has chosen to be the applicant, but that does not bind the County to implementing the proffers on that property, it would be the property owner's responsibility. Mrs. Baker stated Mr. Sites purchased the property just dealing with Supervisor Snellings. Mrs. Hazard stated she would like to make sure the Commission was not putting something in the proffers that was unattainable. Mr. Rhodes asked if the hours of operation limitation was for all operations of the business or only for the office hours. Mrs. Baker stated it was intended for the business, but owner could confirm.

Ms. Karnes stated, after conferring with her client, no customers reclaiming vehicles would come to this location. If a vehicle was towed and the customer wants to pick up the vehicle or personal property, an employee of the business meets the car owner at an off-site location. Mr. Rhodes stated the hours of operation for the office, which were from 10 a.m. to 8 p.m., were not limiting the operation of the tow trucks during that time. Ms. Karnes stated that was correct, most of the operations would not occur at night and most of the towing was done during the day, but not all of it. She stated in the limited circumstances where it was at night, and the vehicle was not being towed elsewhere, the tow truck would deliver the car to the lot and in many cases, the driver would then drive his tow truck home, but customers would not come at night. Mr. Apicella asked if the neighbors on the A-1 properties surrounding the site, had raised any issues or concerns with what had been proposed. Mr. Rhodes asked if staff was aware of any complaints in the past with the business being there. Mrs. Baker stated she has not heard any since the public hearing had been advertised, and she was unaware at this time whether there had been any complaints in the past. Dr. Schwartz asked when Mr. Sites acquired the property from the Scruggs. Ms. Karnes stated it has been over a year and stated that this all came to light when the owner inquired about the occupancy permit, so there was a certain amount of diligence to that extent.

Mr. Rhodes opened the public comment portion of the public hearing. With no one coming forward, Mr. Rhodes closed the public comment portion of the public hearing and brought it back to the Planning Commission. He stated he heard a desire for at minimum, a modification to the proffers to limit longer term, anything up to 30 days if any vehicle was not part of the fleet of the company, and to limit the total number of vehicles that would be stored there at any one point in time. Mr. Gibbons asked if there was any lighting on the property. Mrs. Baker stated she did not believe there was any existing lighting, but she would defer to the owner's representative. Ms. Karnes stated currently there was no outdoor lighting on the site, but the owner had advised her that he hoped to put some up in the future. Dr. Schwartz asked if there was a timeframe that they could expect an answer for it being consistent with VDOT's standards. Ms. Karnes added a second sentence to proffer number 16 that read "the owner shall coordinate with VDOT within 180 days of the approval by the Board of Supervisors of the proffer amendment, and shall install in a timely manner the improvements i.e. the acceleration and deceleration lanes if recommended by and in accordance with VDOT's standards if required by VDOT." Mr. Apicella asked what timely manner means in the proffer. Mr. Harvey suggested adding the specified language shall be installed in a timely manner and post a security for completion of the required turn lanes. Ms. Karnes stated she chose the word timely because it was sometimes difficult to get rapid responses from VDOT, and

Planning Commission Minutes
June 20, 2012

she was trying to ensure that they were not caught up unnecessarily when in fact they were encountering a delay from VDOT. Mr. Apicella stated that one person's definition of timely manner could be different from another person. Mrs. Hazard recommended revising proffer number 1 to state if required by VDOT. Ms. Karnes stated the second sentence in proffer 1 should be deleted because that was how she originally drafted them and the County told her to leave it alone since it was a 99 proffer, even though it conflicted with another 99 proffer on the sheet. Mrs. Baker that was the original proffer from 1999 after going through the Planning Commission and the Board, and the language in proffer number 16 was added. It coincidentally was added at the end of the proffers, but the Commission could modify it and move it all into one proffer, so it was understandable. Mr. Boswell stated his problem was that proffer number 14 was not open to the public. Ms. Karnes asked for her client to come forward. Mr. Sites stated he had other locations and storage facilities for their impounded vehicles, this location was just for storing trucks and the office. Most of his business was transporting vehicles from auction site to auction site. He stated that some vehicles have particular holds on them and that was why he was asking for 30 days on this lot. He stated for their private property impounds, repossessions, and police calls, they have an unmanned lot on Linway Drive, and that was why the public did not need to come to the location on Route 17. He stated when the owner of the vehicle comes to retrieve their belongings they would meet them at the unman lot. He stated they have three other lots, one in Stafford, Fredericksburg, and Spotsylvania. He explained this location was only for transporting business. Dr. Schwartz asked if they were storing transport trailers there also. Mr. Sites stated no because he cannot get them in the driveway. Mrs. Hazard made a motion to defer until the July 11th meeting. Mr. Hirons seconded the motion. The motion passed 7 to 0. Mr. Rhodes proceeded to item number 5. Mr. Harvey asked that the Commission combined items 5 and 6.

5. Amendment to Zoning Ordinance - Proposed Ordinance O12-02 would amend the Stafford County Code by, among other things, creating new definitions, modifying permitted uses and creating new zoning regulations to establish a Transfer of Development Rights (TDR) program. The purpose of the TDR program is to provide a mechanism by which a property owner can voluntarily transfer residential density from sending areas to receiving areas and/or to a transferee without relation to any particular property through a process intended to permanently conserve agricultural and forestry uses of lands, reduce development densities on those and other lands, and preserve rural open spaces and natural and scenic resources. The TDR program is intended to complement and supplement County land use regulations, resource protection efforts, and open space acquisition programs. The TDR program is also intended to encourage increased densities in two designated receiving areas that can better accommodate this growth. **(Time Limit: June30, 2012)**

6. Amendment to the Stafford County Comprehensive Plan ("Plan") - A proposal to amend the Plan dated June 7, 2011 in accordance with Virginia Code Section 15.2-2229 regarding Transfer of Development Rights (TDR). The proposed amendment would modify Chapter 3 of the Plan to incorporate amendments to the textual document and adopt a new map entitled Figure 3.8, Transfer of Development Rights Sending and Receiving Areas. The map generally depicts the area south of Aquia Creek, east of the CSX Rail Line and north of Potomac Creek that are designated as Agricultural/Rural and Park on the Plan Land Use Map as a sending area for Transfer of Development Rights and the lands designated as the Courthouse Urban Development Area as a receiving area for Transfer of Development Rights. **(Time Limit: June 30, 2012)**

***Planning Commission Minutes
June 20, 2012***

Amy Ansong gave the presentation. She stated TDR, Transfer of Development Rights, Ordinance 12-02, was a proposed ordinance which would amend the Stafford County Code by creating new definitions, modifying permitted uses, and creating new zoning regulations to establish a Transfer of Development Rights Program. She defined a TDR as the process where an owner of a parcel of land in a sending area may convey, sell development rights, the ability to build homes on the property in a sending area to another party such that the development rights so conveyed are severed and extinguished from the sending property and may be exercised on a receiving, in addition to the development rights already in existence on the receiving property. She stated on September 16, 2011 the Board of Supervisors adopted Resolution R11-194 and this referred the version of the TDR Ordinance and the Comp Plan Amendments to the Planning Commission for review. She explained that during the past nine months, the Planning Commission and the Board have been discussing the topic of TDRs and as of March 7th, the Board asked the Planning Commission to reconsider TDRs. Ms. Ansong gave a brief overview of the flow chart for the Transfer of Development Rights, which was attachment 6. She proceeded to give a brief overview of the sending and receiving area map, which was attachment 4. She defined the sending area those areas from which development rights are authorized to be severed and transferred to a receiving area or transferee without relation to any particular property. The sending area is land located east of the CSX rail line, north of Potomac Creek, and south of Aquia Creek. She stated that in order to qualify as a sending area the property must meet the following conditions, the property must be designated for Agricultural, Rural, or Park Land Use, the property must be located in areas designated as sending areas on the map entitled Transfer of Development Rights Sending and Receiving Areas in the Comprehensive Plan. Also the property shall be zoned A-2, Rural Residential, on the zoning map, and lastly the property shall be a separate or contiguous parcels that are comprised of at least 20 acres or designated as park on the Land Use Map in the Comprehensive Plan comprised of at least 2 acres and an existence on the effective date of the ordinance. She stated receiving areas are defined as areas authorized to receive development rights transferred from a sending area. The receiving area was the Courthouse Urban Development Area. Mr. Gibbons asked if there were meeks and bounds on the receiving area. Ms. Ansong stated she would find out. She explained that in order to qualify as a receiving area the property had to meet the following conditions, the property must be zoned either as A-1, Agricultural; R-1, Suburban Residential; PD-1, Planned Development-1; PD-2, Planned Development-2; PTND, Planned Traditional Neighborhood Development; or UD, Urban Development, and be located within a receiving area on the sending and receiving area map in the Comprehensive Plan. Also the property shall be located within the U.S.A by the Comprehensive Plan and the property shall be designated as part of a UDA by the Comprehensive Plan. Mr. Apicella asked if there was specific language to remove the citation that this must be designated as a UDA. Mr. Taves stated the Commission would not need new language, he suggested not adopting paragraph D. Mr. Apicella asked if there were other references throughout the document that refer to this particular UDA. Mr. Taves stated there were 2 particular criteria that have bearings on this issue, one was on B, you have located with a receiving area on the sending and receiving areas map, which includes the Courthouse UDA. If you take out paragraph D, then it would not necessarily require inclusion in a UDA. Ms. Ansong continued with the presentation. She stated that additional recommendations in the proposed TDR ordinance deal with the commercial development right. If the owner of the property wishes to covert residential development rights to commercial development rights each such residential development right shall be deemed the equivalence of the rights to construct 3,000 square feet of commercial space on the receiving property. She stated that another recommendation was the 55 percent rule, which states that no more than 55 percent of the total development rights in any development project shall be comprised of development rights transferred. She explained the calculations of gross acreage of the

*Planning Commission Minutes
June 20, 2012*

sending area, and she briefly explained more recommendations that were made concerning the proposed TDR Ordinance, O12-02. She briefly gave an overview of the graph of density allocations, which showed the allocated density and the maximum density, which would be allowed with the TDR. Mr. Apicella asked if the Commission would modify the UD or eliminate them, but he was unsure of the effect on that specific provision. Mr. Harvey stated that in general terms, Ms. Ansong was describing affects to zoning districts, which is different than designating something as an Urban Development Area and defining where they can go. Someone would have to rezone to the UD Zoning District, and if they did then they could take advantage of TDR if they were in one of the receiving zones. Mr. Apicella stated the Commission was creating something that may change over time and may have to fix it in the future if they ever eliminate Urban Developments. Mr. Harvey stated this was a different issue because they were talking about zoning districts versus comprehensive plan, so this would be additional regulations for the zoning category if someone rezoned to it. In summary, Ms. Ansong stated staff recommends adoption of Planning Commission Resolution PCR12-05, recommending approval of the proposed amendments to the Comprehensive Plan and proposed Ordinance O12-02 subject to approval of the Comprehensive Plan amendments.

Scott Mayausky, Commissioner of the Revenue, gave an overview of the tax Abatement program. Discussion ensued regarding the real estate tax abatement and the sunset clause.

Mr. Rhode opened the public comment portion of the public hearing.

Patrick Coady, Chairman of Northern Virginia Conservation Trust and a founding Board member, stated the basic premise of which they have been trying to go forward on was if the lot owners are allowed to extract the economic value from those lots through the TDR Program then the remaining residual value of those lots are something that they can then go in and organize financing, buy their fee simple titles, and put it into Crow's Nest Reserve. He stated they have done previous research on other TDR programs and the typical TDR program focuses on agriculture or forestry land with parcel sizes of 100 acres to 400 acres. If they give up the development rights they are allowed to farm, forest, and build barns, and suggested the Commission revisit and look into the fact that they may have migrated the concept of the language that applies to large lots. He suggested carving out Crow's Nest Harbour. He stated that other land owners said the TDR Rights could be extracted.

Cecelia Kirkman stated she and Mr. Gibbons have been working on saving Crow's Nest for more than a decade, and everyone was waiting for a solution. Unfortunately, this TDR legislation as it was written fails to do the job. It uses tax payer dollars to bail out real estate speculators and fails to permanently protect all of Crow's Nest from development. She recommended denial of the legislation as written and ask the Board to send it back to the Commission for more work. Second, recommend to the Board that they convene all the relevant parties to find a solution to Crow's Nest, so that once that solution was in place, TDR legislation that will benefit the entire County can be implemented. And third because the legislation will move forward to the Board to make specific changes to it to mitigate the potential unintended consequences as it was now written. She stated that Crow's Nest Harbour consists of approximately 347 2 to 3 acre lots and there was nothing in the legislation that ensures that all of those lots will be protected from development and made part of the Crow's Nest Natural Area Park. She stated there was a gap in the TDR legislation that could be gamed to create a subdivision on Crow's Nest with 10 acre estate lots by severing only a portion, but not all of the development rights, vacating lot lines, and then creating large lots with one development right per lot. And the inclusion in the Ordinance of an allowance for a 6,000 square foot structure for agricultural uses and zoning land use of A-2, Agricultural includes residential uses

*Planning Commission Minutes
June 20, 2012*

seems to affirm that this could in fact occur. She stated there was a problem with getting this done in a timely manner. She suggested the Commission set an expiration date on development rights.

Alane Callander of Falmouth stated that she supports Mr. Cody and Mrs. Kirkman's previous statements. She stated that the citizens of Stafford would like to see certain areas protected and they have said an urban area at the Courthouse makes sense. She stated there seems to be some logic from transferring development rights to the Courthouse area, however, she has concerns about there being an increase in residential density in the A-1 agricultural area. She asked that the Commission consider what the total impact is on the County, in terms of the potential residential units.

With no one else coming forward to speak, Mr. Rhodes closed the public hearing and brought it back to the Planning Commission.

After a lengthy discussion of Transfer of Development Rights and Tax Abatement, Mr. Apicella made a motion to modify the version the Commission was considering on page 19, section 28-358, by removing subparagraph A4, and modify A3 by adding "and" at the end, and modify subparagraph A5 by making it A4. Mr. Gibbons seconded the motion. The motion passed 7 to 0.

Mr. Apicella made a motion to add the following language to the Ordinance, "the Commissioner of Revenue will consult and work with the local governing body in developing and implementing the policies and procedures for a TDR Tax Abatement Program" in subparagraph H of page 18. Mr. Gibbons seconded the motion. Mr. Taves recommended making that motion a request or recommendation. Mr. Rhodes suggested highlighting subparagraph H to refer forward. Mr. Apicella considered that a friendly amendment and made a motion not to make a modification to subparagraph H but to emphasize in the referral whatever subsequent referral to the Board should it be referred forward that subparagraph H was an area of concern and an area that they would highlight very strongly to their considerations of discussions with the Commissioner of Revenue on how that would be implemented and how best to approach it. Mr. Gibbons seconded the motion. The motion passed 7 to 0. Mr. Rhodes recommended highlighting to the Board the intention should they establish another Ordinance they would establish a sunset clause for it. Mr. Apicella made a motion to delete sections 28-365 but identify to the Board, should it be referred forward, that they would intend to ask them for permission to develop a Sunset Clause Ordinance. Dr. Schwartz seconded the motion. The motion passed 5 to 2 (Mrs. Hazard and Mr. Hirons opposed). Mrs. Hazard made a motion to make the following modifications to the Comprehensive Plan, on page 1 of 3 using the language "furthermore up to 491 units in the receiving area could be made possible by the Transfer of Development Rights Program adopted by the Board of Supervisors on" and the date to be identified if they adopt it. The next sentence would state any development project to occur in the receiving area. On the top of page 2, take out the first sentence, and on page 3 the second sentence afterwards in bold says Receiving Areas, figure 3.8 shows the receiving area, outlined in red. The next change below that would start with the end of subparagraph 3, place a period after Comprehensive Plan and delete everything thereafter. Mr. Gibbons seconded the motion. The motion passed 7 to 0. Mr. Apicella made a motion to recommend to the Board of Supervisors the adoption of proposed Ordinance, O12-02, as it has been modified. Mr. Gibbons seconded the motion. The motion passed 6 to 1 (Mr. Hirons opposed). Mr. Apicella recommended adoption of the Comprehensive Plan Amendments as amended this evening. Mr. Gibbons seconded the motion. The motion passed 6 to 1 (Mr. Hirons opposed). Mr. Rhodes proceeded to item number 7.

***Planning Commission Minutes
June 20, 2012***

7. Amendment to Zoning Ordinance; Restricted Access Entrances – Proposed Ordinance O12-21 would amend Stafford County Code, Section 28-108, “Restricted Access Entrances”. Currently the Zoning Ordinance requires all residential developments with private streets and thirty-five (35) or more dwellings to have restricted access entrances. Proposed Ordinance O12-21 would make the requirement to have restricted access entrances optional. **(Time Limit: July 31, 2012)**

Andrea Hornung gave the presentation. She stated this issue came about many years ago where gates were required in neighborhoods that had private roads, like townhouses, and apartment complex, for security reasons. Since that time it had become problematic, not only for emergency services to access those gates but the Property Owner’s Associations of those neighborhoods have had issues with maintaining those gates for operation and maintenance. She stated the proposed Ordinance has been sent to the Planning Commission from the Board. The proposed Ordinance is O12-21, which takes the requirement of restricted access entrances, predominantly gates or a feature of that nature to be installed in those townhouses, apartment complexes, and those neighborhoods that have private roads. She stated it takes the word “shall” out of the Ordinance and replaces it with “may.”

Mr. Rhodes opened the public comment portion of the public hearing. With no one coming forward, Mr. Rhodes closed the public comment portion of the public hearing and brought it back to the Planning Commission.

Mr. Gibbons made a motion to recommend to the Board of Supervisors approval of proposed Ordinance O12-21. Mr. Apicella seconded the motion. The motion passed 7 to 0.

8. Amendment to Zoning Ordinance; Chesapeake Bay Phase III Compliance – Proposed Ordinance O12-20 would amend Stafford County Code, Chapter 28, Section 62, entitled “Chesapeake Bay Preservation Area Overlay District”, to bring the County into compliance with Virginia Code Section 10.1-2109 and Virginia Administrative Code Section 9VAC10-20-191A4i-iii. Proposed Ordinance O12-20 would require notes on final plats regarding Resource Protection Area Standards for buffers and septic tank pump-out. **(Time Limit: July 31, 2012)**

Andrea Hornung gave the presentation. She stated this Ordinance Amendment comes from the Chesapeake Bay Local Assistance Board with the County Regulations and they completed a compliance evaluation in May of this year and the Resolution to the Planning Commission was making certain notes that were already required on plats to be codified because currently they were not required as part of our Ordinance. By making the notes codified the wording would be “shall” not “may.” The notes that would be required per this Ordinance would state, under the Stafford County Chesapeake Bay Preservation Area Overlay District Ordinance, the lots shown hereon are subject to having sewage disposal systems pumped out every five years. The primary and the 100 percent reserve sewage disposal sites cannot be altered by construction or excavation. The second note would state, the 100-foot wide vegetated Critical Resource Protection Area buffer shall remain undisturbed in accordance with Stafford County Chesapeake Bay Ordinance O28-62. Only water dependent facilities or redevelopment are permissible in Critical Resource Protection Areas and the 100-foot wide buffer area. She stated this was an existing requirement, and in this case it was going from a request during the review process to a requirement.

***Planning Commission Minutes
June 20, 2012***

Mr. Rhodes opened the public comment portion of the public hearing. With no one coming forward, Mr. Rhodes closed the public comment portion of the public hearing and brought it back to the Planning Commission.

Mr. Gibbons made a motion to recommend to the Board of Supervisors approval of proposed Ordinance O12-20. Mrs. Hazard seconded the motion. The motion passed 7 to 0.

PLANNING DIRECTOR'S REPORT

- I-Pads – Data Plans

Discussed before public presentations.

COUNTY ATTORNEY'S REPORT

Discussed before public presentations.

COMMITTEE REPORTS

9. **Proffer Guidelines**

Discussed before public presentations.

CHAIRMAN'S REPORT

Discussed before public presentations.

OTHER BUSINESS

10. **TRC Information – June 27, 2012**

Discussed before public presentations.

APPROVAL OF MINUTES

None

Discussed before public presentations.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 10:13 p.m.

Michael Rhodes, Chairman
Planning Commission